

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA (ERIE DIVISION)

PELLEGRINO FOOD PRODUCTS, INC.	:	
Plaintiff,	:	Case No.: 1:05-CV-00189
	:	
v.	:	
	:	
RHEON U.S.A.,	:	Judge McLaughlin
Defendant/Counterclaim	:	
Plaintiff,	:	
	:	
v.	:	
	:	
PELLEGRINO FOOD PRODUCTS	:	
COMPANY, INC., also known as	:	
PELLEGRINO FOOD PRODUCTS, INC.,	:	
Counterclaim Defendant,	:	
	:	
and	:	
	:	
CALIFORNIA FIRST LEASING	:	
CORPORATION,	:	
Counterclaim Defendant	:	

AFFIDAVIT OF THOMAS PELLEGRINO

1. My name is Thomas Pellegrino, and I am the president of Plaintiff Pellegrino Food Products, Inc.
2. I am aware of the facts in this lawsuit.
3. If the lawsuit would proceed to trial, Pellegrino would call several witnesses from the Warren, Pennsylvania area to testify at trial regarding the purchase and use of the machines, the problems with the machines, attempts to fix the machines, damages caused by the improper functioning of the machines (including lost sales and profits), negotiations with Rheon, and possibly negotiations with CalFirst. These witnesses include myself, my 80 year old father

Anthony Pellegrino, Sally Pellegrino, Debra Davies, Richard Mack, John Hoffman, Mike Fisher, Sue Tryon, and ex-employees Robert Whitman and John Stevenson.

4. My father is 80 years old and is in poor health, and traveling to California would be a severe physical hardship for him.

5. Mr. Stevenson and Mr. Whitman are witnesses who reside in the Warren area, but are no longer employed by Pellegrino.

6. The cornucopia encrusting machines in this lawsuit are located in Pellegrino's plant. The machines are large (approximately 2,000 pounds) and difficult to move. If this lawsuit would proceed to trial, I believe it would be beneficial for the fact finder to view these machines in Pellegrino's plant.

7. I don't know any attorneys in California, and it would be a financial hardship for Pellegrino to locate and hire an attorney in California, and then have the new attorney become familiar with the facts of this case.

I declare under penalties of perjury that the above is true and correct.

/s/ Thomas Pellegrino
Thomas Pellegrino

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CALIFORNIA FIRST LEASING	:	
CORPORATION,	:	
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on November 7, 2005, a true and correct copy of the Affidavit of Thomas Pellegrino was filed this date in the above captioned matter and was duly served upon the following by electronic service:

Robert J. Tribeck, Esquire
Rhoads & Sinon LLP
One South Market Square, 12th Floor
Harrisburg, PA 17108-1146

And by service of original process pursuant to Federal Rule of Civil Procedure 4,
upon:

John Pendleton, Esq.
Lisa S. Bonsall, Esq.
McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102

Respectfully submitted,

/s/ John J. Mead
John J. Mead, Esquire
Suite 800 Renaissance Centre
1001 State Street
Erie PA 16501
(814) 459-1726